

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
NORTHERN DIVISION**

**FREDRICK L. ROBINSON**

**PLAINTIFF**

**VS.**

**CAUSE NO. 3:13-CV-0007-HTW-LRA**

**JACKSON STATE UNIVERSITY;  
DR. VIVIAN FULLER**

**DEFENDANTS**

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**PLAINTIFF'S MOTION FOR A CURATIVE INSTRUCTION  
AND TO POLL THE JURY**

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Plaintiff moves the Court to give a curative instruction informing the jury that evidence of a witness' religious beliefs is not admissible, is irrelevant, and should be disregarded by the jury. Plaintiff moves the Court that following that curative instruction, the Court poll the jury to obtain the assurance of each juror, individually, that such juror can disregard the question and give no weight to Plaintiff's religion. In support of this Motion, Plaintiff shows the Court as follows:

1. After filing its own motion *in limine* to exclude Plaintiff's counsel from referencing religious beliefs [Docket 70], Defendant undermined Plaintiff's credibility by questioning him about his Muslim faith. While Plaintiff is of the Muslim faith, he has never claimed any religious discrimination by Jackson State University. See attached deposition of Plaintiff, pp. 57-64, Exhibit "A." Questions about Plaintiff's religion were, therefore, not relevant, and were in plain violation of Federal Rule of Evidence 610 which specifically forbids such evidence.

2. Informing the jury that Plaintiff is a Muslim was designed to cause prejudice toward Plaintiff. Many, perhaps most, Americans disdain Muslims in light of the fact that the terrorist attacks on 9-11 were carried out by Muslims, in light of the ongoing slayings now being carried out by Muslims in Syria and Iraq, in light of the murdering schemes being carried out by the Islamic

State in Syria (ISIS), and in light of the mass murder of school children just reported by news media last week in Pakistan. The negative feelings entertained by Americans toward Muslims is well documented. See, Sabrina Siddiqui, “*Americans Attitude Toward Muslims and Arabs are Worse, Poll Finds*,” Huffington Post, July 29, 2014, copy attached as Exhibit “B.” The author there observes that a recent poll indicates Muslims are “perceived as negatively as Atheists.” Obviously, any relevance of the question about being a Muslim was outweighed by its prejudicial effect. Federal Rule of Evidence 403.

3. *United States v. Valles*, 484 F.3d 745 (5th Cir. 2007) held that the Fifth Circuit gives “great weight” to the trial court’s assessment of the prejudicial effect of evidence. Prejudicial remarks may be rendered harmless by “prompt and strong” curative instructions. *United States v. Lichenstein*, 610 F.2d 1272 (5th Cir. 1980), abrogated on other grounds, *United States v. Gaudin*, 515 U.S. 506 (1995).

Accordingly, Plaintiff requests that the Court give the jury an immediate curative instruction, informing jurors that a party’s religious beliefs must play no role in its deliberations. Thereafter, Plaintiff requests the Court to poll each member of the jury, individually, to determine whether such juror can disregard Plaintiff’s religion, and give no consideration to his religion in reaching its verdict. If the Court cannot obtain such assurance from the jury, Plaintiff requests a mistrial.

RESPECTFULLY SUBMITTED, this the 20th day of December, 2014.

FREDRICK L. ROBINSON, Plaintiff

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ATTORNEYS FOR PLAINTIFF

**CERTIFICATE OF SERVICE**

This will certify that undersigned counsel for Plaintiff has this day filed the above and foregoing with the Clerk of the Court, utilizing the federal court electronic case data filing system (CM/ECF), which sent notification of such filing to the following:

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DATED, this the 20th day of December, 2014.

*/s/ Jim Waide*  
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Jim Waide